

V. Remarks**A. Drawing Objections**

The Action objects to the drawings for failing to show the features of Claim 11. New drawing sheet 6 with new FIG. 5 has been added to show these features. Specification Paragraphs 10 and 14 have been amended to make reference to FIG. 5. Support for these amendments can be found at, for example, the claims as originally filed and Paragraph 16.

Reconsideration and withdrawal of this objection are respectfully requested.

B. Allowable Subject Matter

Applicants are grateful to the Examiner for allowing Claims 16-21.

C. Rejection under 35 U.S.C. §103**1. Claims 1, 4-8, 14-15 and 22-24**

The Action rejects Claims 1, 4-8, 14-15 and 22-24 as being obvious from U.S. Des. Patent No. 300,566 to Fein in view of U.S. Patent No. 5,480,126 to Teasdale.

In the rejection of independent Claim 1 (directed to a post cladding element), Claim 8 (directed to a method of cladding a post) and Claim 24 (directed to a cladged post assembly), the Examiner takes the position that Fein does not disclose whether the seam closure is a male and female connection that cooperates to hide the seam closure. The Examiner then relies on Teasdale for this feature. Reconsideration of this rejection is requested in view of the following arguments.

Applicants respectfully submit that the Fein and Teasdale references cannot be combined because Fein is non-analogous art to Teasdale and Applicant's claimed invention. "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the invention was concerned." MPEP 2141.01(a). Fein discloses a "wall

track extrusion.” Applicants submit as **Exhibit A** to this Response a print out from DFB Sales, Inc. (the assignee of the Fein patent) showing the use of the wall track extrusion. Apparently, a “wall track extrusion” is used to install wall fabric upholstery. It is submitted that installing wall fabric upholstery is not in Applicants’ field of endeavor – post cladding – nor in the field of Teasdale – fence construction. Further, it is submitted that Fein is not “reasonably pertinent” to the problem with which the present invention is concerned – effective and aesthetic cladding of posts. Indeed, from Exhibit A, it appears that the wall extrusion of Fein (a) does not clad anything and (b) is hidden when used, making its aesthetics irrelevant.

Therefore, since Fein is not analogous art, it is submitted that it is improper to combine Fein and Teasdale to achieve Applicants’ claimed invention. For at least these reasons, it is submitted that independent Claim 1, 8 and 24, and the claims that depend therefrom, are allowable over the cited combination.

Further, even were Fein and Teasdale considered analogous art, it is submitted that there is no suggestion or motivation to combine the two references. As discussed above, Fein provides a wall track extrusion for securing fabric over a wall. The fabric is stretched over the wall track extrusion and covers the wall track extrusion after installation. One of ordinary skill, therefore, would not have been motivated to modify the Fein wall track extrusion as suggested by the Examiner to provide the claimed seam closure comprising a female connector and a male connector disposed to mate with each other, wherein an outer surface of said flexible body includes an ornamental configuration, and wherein said male and female connectors cooperate to camouflage or hide said seam closure into said ornamental configuration because the seam closure of Fein is hidden in use, does not clad anything, and is specifically designed for use with fabrics.

Therefore, for this additional reason, it is submitted that one of ordinary skill would not combine the cited references to achieve Applicants’ claimed cladding element, post cladding method and cladded post assembly.

Still further, it is submitted that the combination of Fein and Teasdale does not provide Applicants; claimed post cladding element. The Examiner relies on FIG. 4 of Teasdale for the claimed feature of “said male and female connectors cooperat[ing] to camouflage or hide said seam closure into said ornamental configuration.” Turning to FIG. 4, it is submitted that the only ornamental feature of the fence rail sleeve 10 is protuberances 32; the sleeve 10 is otherwise completely unornamented, i.e., it has completely planar faces. The seam closure is in no way camouflaged or hidden into the ornamental protuberances 32. Further, though Teasdale states that the male members 16 and female members 18 are not visible, the seam created at their junction clearly is visible. This can be seen by comparing, for example, the appearance of the outer surface of the bottom left-hand corner of the sleeve 10 in FIG. 4 to the appearance of the surface of the bottom right-hand corner of the sleeve. The outer surface of the bottom left hand corner is continuous and unbroken whereas a visible seam is created in the surface of the right side of the bottom right-hand corner.

For at least these additional reasons, it is submitted that Claims 1, 8 and 24 are not obvious over the cited combination and are allowable thereover, along with the claims that depend therefrom.

2. Claims 11-13

The Action rejects Claims 11-13 over the Fein/Teasdale combination in further view of U.S. Patent No. 5,956,920 to Davis. Claims 11-13 depend from 8, which is allowable as set forth above. Reconsideration and withdrawal of this rejection are respectfully requested.

D. New Claims

New Claims 25-27 have been added.

These claims recite that the tubular flexible body comprises four corners when said opposing longitudinal edges are mated, wherein the ornamental configuration comprises raised sections at each corner. Through their dependence on the independent claims, this seam closure

is camouflaged or hidden into this ornamental configuration. It is submitted that this feature is neither taught nor suggested by the art of record either individually or in combination. It is submitted, therefore, that these claims are independently allowable over the art of record.

Examination and allowance of these claims are respectfully requested.

VI. Conclusion


In view of the foregoing remarks and amendments, Applicants submit that this application is in condition for allowance at an early date, which action is earnestly solicited.

The Commissioner for Patents is hereby authorized to charge any additional fees or credit any excess payment that may be associated with this communication to deposit account **04-1679**.

Respectfully submitted,

Dated: _____


8/8/06



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DFB SALES	ABOUT DFB	DFB SOL-R-SHADES™	TRACK-TEX	SOFT-WINDOWS	ATHEY SHADES	VITRÜV™ SURFACES
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General Information

Site-installed Track-TEX

Panel-TEX prefab panels

Fabric Options

TRACK-TEX™

PRODUCT PHOTOS:

1

2

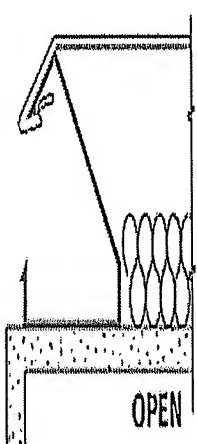
3

4

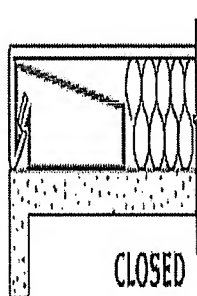
The Track-TEX™ High-Tension System, DFB's site-installed wall upholstery, is created by a framework of rigid vinyl channels. The exclusive Track-TEX Power Lock Jaw assures maximum stretch and hold. The system is suitable for individual panels and sewn-seam installations.

After a variety of panel fillings are added, the fabric is stretched onto the framework and locked into place. The Power Lock Jaw design, with its slip-proof mechanism, assures lasting fabric tautness and a clean, finished edge. The Track-TEX upholstered panel, using 1/2 inch fiberglass filling and flame-retardant fabric, features a Class "A" flame-spread rating in accordance with the ASTM E-84 Tunnel Test. Results depend on the specific fabric used.

POWER-LOCK JAW



OPEN



CLOSED

Track-TEX provides the best features of all DFB wall upholstery:

- High fabric tension
- Removability
- Replaceability
- Wide range of suitable fabrics

7 Details

7 Specifications